

**REPORT ON INTERESTED PARTIES MEETING  
REGULATION SECTION 25128  
APPORTIONMENT OF BUSINESS INCOME  
JANUARY 9, 2008**

The interested parties meeting was held on January 9, 2008, at the Franchise Tax Board's Central Office in Sacramento. The facilitator was Marguerite Mosnier, Tax Counsel for the Franchise Tax Board (department).

Prior to the interested parties meeting, the department posted an overview and history of Revenue and Taxation Code (RTC) section 25128 and a list of discussion topics. The discussion paper explained that staff was not proposing any specific changes to the regulation. Rather, the purpose of the meeting was to discuss whether the regulation needed to be amended to provide a comprehensive definition of "banking or financial business activity."

Representatives of banking and financial institutions, major corporations, law firms, accounting firms, and of the department attended the meeting. They expressed the following thoughts and concerns:

- The intent of RTC section 25128 was that the exceptions to double-weighting be narrowly construed.
- It is unclear exactly what the "business activity of a national bank" is for purposes of RTC section 25128(d)(5), because the scope of authorized activities for national banks has greatly increased since this section was last amended.
- RTC section 23183's definition of "financial corporation" is only somewhat helpful to interpret "banking or financial business activity" because RTC section 23183 is applied at an entity level and RTC section 25128 at a unitary, group-wide level.
- Corporations that engage in brokerage activities might be considered engaged in "banking or financial business activities" for purposes of RTC section 25128, but might not be considered "financial corporations" under RTC section 23183. It would be helpful to have the definitions of RTC sections 23183 and 25128 dovetail.
- Many activities are "in competition with national banks" (RTC section 21528(d)(5)); perhaps the definition should not be that broad.
- "Banking and financial business activity" needs clarification and needs to dovetail with RTC section 23183.
- It may be appropriate to seek amendments to both RTC sections 25128 and 23183 in conjunction with amendments to regulation section 25128.

At the conclusion of the meeting, staff reiterated its interest in hearing and receiving additional comments, and agreed to provide this summary to interested parties. Several participants volunteered to take part in a working group to discuss these issues further to determine what, if any, changes should be made to regulation section 25128 and/or proposed to RTC sections 25128 and 23183. Proposed changes would be provided to all interested parties for further review and comments.